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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,692	02/18/2004	Noam Camiel	NOAMC-0001-2004	8952
7590 09/21/2005				
NOAM CAMIEL 47 BILU ST. TEL-AVIV, 64256 ISRAEL		EXAMINER RUSSELL, CHRISTINA MARIE		
		ART UNIT PAPER NUMBER 2837		

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/779,692	CAMEL, NOAM	
	Examiner	Art Unit	
	Christina Russell	2837	

(m)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:
2. Figure 5, reference number 501.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

1. The disclosure is objected to because of the following informalities:

2. In paragraph [0079], the sentence that begins "In play mode "loop"... " needs to be revised.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 10 and 11 recite the limitation "the track database" in the first line of both claims. There is insufficient antecedent basis for this limitation in the claim. In other words, there is no previous mention in the above claims, to which these are dependent, to said track database.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 7, and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by the US patent application publication to Williams (US 2002/0091455).

8. In terms of claim 1, Williams teaches a system which segments tracks into parts or separate files, comprising also of a track database that houses these separate files and a mixer to mix these separate files into one track (see page 1, paragraphs [0011] and [0012], and page 2, paragraph [0035]).

9. In terms of claim 7, Williams teaches, similar to claim 1, of a method representing a track and it's segments or separate part files, which provide the building blocks to further create a unified data track (see again page 1, paragraphs [0011] and [0012], and page 2, paragraph [0035]).

10. As for claims 10 and 11, dependent upon claim 7, Williams teaches of multiple track databases or stored data files, one residing separate from the track and one stored on the same media (see page 1, paragraph [0008], [0011], and [0012]).

11. In terms of claim 12, Williams again teaches of a system with a track database, but with the separate segments or files being a master or primary track and a slave or accompaniment track, both being coupled together to form a single track file (see page 1, paragraphs [0011] and [0012], and page 2, paragraph [0035]).

12. As for claim 13, Williams teaches the created slave or accompaniment track plays in accordance to the beat start of the created master or primary track (see page 6, paragraphs [0071], [0076], and the beginning of [0078]).

13.

Art Unit: 2837

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claim 4 is rejected under 35 U.S.C. 102(e) as being anticipated by the US patent application publication to Barry (US 2005/0025320).

16. Barry teaches a method for mixing track segments or parts during the mixing process or play. Barry also teaches the playing and mixing of the segments according to preset instructions or controls, and the ability to modify these instructions and the play order on the time axis of these segments. Barry also teaches the ability to check through visual display the preset instructions for segments further down the time axis of the track (see page 1, paragraphs [0002] and [0003], page 3, paragraphs [0058], [0061] and the end of [0064], page 4, paragraph [0079], page 5, paragraphs [0080] and [0083], and page 6, paragraph [0093]).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims, 2, 3, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of the US patent to Laroche (6,316,712).

19. In terms of claims 2 and 3, Williams teaches all of the above claimed elements, as stated in claim 1, except for the track files starting and ending on a beat before the next file or segment starts, and the track comprising a certain tempo, or time signature, denoting the beats the track contains. Laroche teaches these beat and tempo applications (see column 1, lines 15-17, 46-48, 51-57 and 62-64, and column 2, lines 1-3). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate the tempo and downbeat apparatus and method of Laroche into the mixing apparatus of Williams in order to automatically detect the tempo and downbeat of the incoming segment from the database as to make it easier to place that track segment in the appropriate location on the track time axis, therefore making it easier to use the segment building blocks to form a more organized and smoothly transitioned track.

20. In terms of claim 8 and 9, a similar argument can be made as for the combination of the apparatus and method of Laroche into the mixing apparatus and method of Williams.

21. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barry in view of the US patent to Laroche.

22. In terms of claims 5 and 6, Barry teaches all of the above claimed elements, as stated in claim 4, except for the track files starting and ending on a beat before the next

file or segment starts, and the track comprising a certain tempo, or time signature, denoting the beats the track contains. Laroche teaches these beat and tempo applications (see column 1, lines 15-17, 46-48, 51-57 and 62-64, and column 2, lines 1-3). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate the tempo and downbeat apparatus and method of Laroche into the multi-media apparatus of Barry in order to automatically detect the tempo and downbeat of the preset track segments, on the already present visual display of Barry, and to further make it easier to place these separate track files in the appropriate location on the track time axis in relation to each other, therefore making it easier to use these building blocks to form a more organized and smoothly transitioned track.

23. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of the US patent to Windle (6,686,970).

24. Williams teaches all of the claimed elements as disclosed above in claim 12, except for the master or primary track beat information being exported to an external device and that device being a video projection in synch the beat of the music. Windle does however teach this synchronization of beat and video (see column 9, lines 39-62). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate the similar techniques of beat synchronization of both Williams and Windle to further add more performance flare to the mixing system of Williams.

25. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Windle as applied to claim 14 above, and further in view of the US patent to Marx (6,175,632).

26. Together Williams and Windle teach all of the claimed elements as stated above in claims 12 and 14, except for the external device, that receives the beat information, being lighting effects in synchronization with the beat. However, Marx discloses knowledge of an external device, such as light synchronization to the beat of music (see column 1, lines 35-49). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to take a widely known DJ performance trick, as explained by Marx, and attach that aspect to the mixing and editing device of Williams which already synchronizes the separate track files to each other in accordance to beat.

27. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Windle as applied to claim 14 above, and further in view of the US patent application publication to Barry.

28. Together Williams and Windle teach all of the claimed elements as stated above in claims 12 and 14, except for the external device, that receives the beat information, being a musical instrument in synchronization with the beat. However, Barry discloses knowledge of an external device, such a musical keyboard instrument that is programmed in synch to the beat of the music (see page 1, paragraph [0004]). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate this external device synchronization technique of Barry, and attach that aspect to the mixing and editing device of Williams, which already synchronizes the separate track files to each other in accordance to beat. This addition would make access to and editing of the tracks easier with just a simple depression of a keyboard key.

Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patent application publications to Becker (US 2004/0177746) and Herberger et al. (US 2002/0166440).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Russell whose telephone number is 571-272-4350. The examiner can normally be reached on Mon-Fri, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CR
9/16/2005



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